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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,791	04/30/1999	RORY MATTHEW JOHNSON	G-00263/US	8861
35758	7590	01/21/2005	EXAMINER	
GKN DRIVELINE NORTH AMERICA, INC 3300 UNIVERSITY DRIVE AUBURN HILLS, MI 48326			GARCIA, ERNESTO	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/303,791

Applicant(s)

JOHNSON, RORY MATTHEW

Examiner

Ernesto Garcia

Art Unit

3679

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

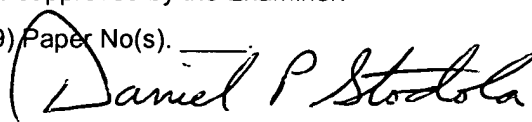
The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 8, 10, 11 and 13.Claim(s) withdrawn from consideration: 1-4, 9 and 12.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
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Continuation of 5. does NOT place the application in condition for allowance because: the argument, in respect to claims 8, 10, 11 and 13, that it would not have been obvious to one of ordinary skill in the art to include radially distributed apertures on a crimping lip is not persuasive.

A prima facie case of obviousness has been established by the secondary reference. In particular, the secondary reference teaches the motivation for placing aperture on a crimping lip in column 2 in lines 62-68.

Furthermore, the argument that Sugiura et al. and Welschof et al. fail to teach "the crimping lip having a thickness greater than other portions of the boot" is not persuasive. Applicant states that it is improper to speculate that a reference includes a teaching or suggestion if that teaching or suggestion is not present in the specification. In response, the examiner is not speculating or inferring the teaching. Applicant or anyone reviewing the references would only look in the drawings to verify that this statement is true. The examiner in the rejection clearly stated where these portions are located in respect to the drawings. Applicant further argued that simply visualizing from drawings with no suggestion that the drawings are to scale does not indicate a teaching, disclosure or suggestions. Even if the drawings are not indicated as being made to scale, one of ordinary skill in the art can review Sugiura et al. and other references and still come to the same conclusion that the lip is customary to be thicker than other portions of the boot as the other portions need to be flexible in respect to connection points, i.e., crimping lips.

Applicant further argued, in respect to claims 11 and 13, that the radially distributed apertures do not reduce the crimping force by up to approximately 50%. In response, applicant has not submitted supportive evidence as in test results to confirm the contrary. Applicant is reminded that by adding radially distributed apertures the force inherently will be reduced approximately 50% versus a lip that does not have apertures.